IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION

UNITED STATES OF AMERICA,)	
Plaintiff,)	
vs.)	NO.: 88-20212/An
HENRY WESLEY,)	
,)	
Defendant.)	

ORDER DENYING MOTION TO REDUCE SENTENCE PURSUANT TO 18 U.S.C. § 3582 (c)

On February 11, 2008, Defendant Henry Wesley, Bureau of Prisons ("BOP") inmate registration number 11461-076, an inmate at Memphis FCI in Memphis, Tennessee, filed a prose motion in his closed criminal case seeking a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(2) as a result of the retroactive application of Amendment 706 to the United States Sentencing Guidelines. Amendment 706 adjusts downward by two levels the base offense level assigned to each threshold quantity of crack cocaine listed in the Drug Quantity Table in § 2D1.1. See U.S.S.G. § 2D1.1 (Nov. 1, 2007); U.S.S.G. Supp. To App'x C, Amend. 706. Only those persons currently serving a sentence determined or affected by a sentencing range calculated using the drug quantity table, U.S.S.C. § 2D1.1, are potentially eligible for the reduction. United States v Tingle, 2008 WL 819026 (E.D. Ark. Mar. 25, 2008).

To determine whether Defendant is eligible for a sentence reduction, the court must determine the amended guideline range "that would have been applicable to the defendant if the

crack cocaine amendment . . . had been in effect at the time the defendant was sentenced."

U.S.S.G. § 1B1.10(b)(1). The Court may only substitute the amended retroactive guideline, in

this case § 1D1.1, and shall leave all other guideline application decisions from the original

sentencing unaffected. Id. The applicable sentencing guideline range for Defendant was based

on his status as a career offender.

As the Court has determined that Defendant's sentence was not based on a guideline

range affected by Amendment 706, Defendant's motion to reduce sentence pursuant to 18 U.S.C.

§ 3582(c) is **DENIED.**

IT IS SO ORDERED.

s/S. Thomas Anderson

S. THOMAS ANDERSON

UNITED STATES DISTRICT JUDGE

Date: September 11th, 2008.

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